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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,713	08/20/2003	Michael D. Ellis	81788-4100	8451
28765 7590 04/17/2007 WINSTON & STRAWN LLP PATENT DEPARTMENT 1700 K STREET, N.W. WASHINGTON, DC 20006			EXAMINER RICHMAN, GLENN E	
			ART UNIT 3764	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/17/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/645,713	ELLIS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Glenn Richman	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 36-62 and 65-68 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-62 and 65-68 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/6/07, 9/29/06</u> | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

The election requirement from 1/5/07 is withdrawn.

Applicant's arguments with respect to claims 32-62, 65-67 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 36-62, 65-68 are rejected under 35 U.S.C. 102(b) as being anticipated by Mault.

Mault discloses a heart rate data sensor device that is adapted to be worn on an athlete's chest during mobile athletic activity and is configured to wirelessly transmit a heart rate output that is representative of a current heart rate of the athlete (0013), a speed data sensor device that is adapted to be in a physical relationship with the athlete in which the speed data sensor device moves with the athlete's mobile athletic activity and is configured to receive Global Positioning System (GPS) information (0040), and to wirelessly transmit a speed of movement output that is representative of the current speed of movement of the athlete (0040), a display device that is adapted to be worn on the wrist of the athlete and is configured to receive the

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heart rate output and the speed of movement output and to display the current heart rate identified by the heart rate data sensor device and the current speed of movement identified by the speed data sensor (fig. 1); and a storage device that is adapted to be in a physical relationship with the athlete in which the storage device moves with the athlete's mobile athletic activity and is configured to receive the current heart rate output from the heart rate data sensor device and the current speed of movement output from the speed data sensor device and to store a log of data representative of the current heart rate and the current speed of movement for tracking the mobile athletic activity for different sets (fig. 6).

As for claims 37-62, Mault discloses the storage device is adapted to be clipped to the athlete's clothing (fig. 9), the storage device is adapted to be carried in a pocket of an article of clothing worn by the athlete (inherent the device could be carried in a pocket), the storage device is further configured to operatively communicate with a personal computer of the athlete to download logged data (fig. 1), the display device is configured to display the current time and date (fig. 1), the speed data sensor is configured to wirelessly transmit geographic location information based on the GPS information (fig. 7), the storage device is configured to log geographic location information of the athlete when the geographic location information is received from the speed data sensor (0028), the display device is programmable to switch the display device to receive the current heart rate output from another heart rate data sensor device and to switch the storage device to receive the current speed of movement output from another speed data sensor device (abstract) the storage device comprises

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random access memory for storing the logged information (42), the storage device is programmable to be switched to receive the current heart rate output from another heart rate data sensor device and programmable to be switched to receive the current speed of movement output from another speed data sensor device (abstract), the storage device is user-programmable to receive the current heart rate output from a different heart rate data sensor (abstract), the storage device is user-programmable to receive the speed of movement output from a different speed data sensor (0040), additional data sensor devices that are each adapted to be in a physical relationship with the athlete in which the additional data sensor devices move with the athlete's mobile athletic activity, and wherein the storage device and the display device are programmable to receive outputs from the additional sensor devices and to respectively display and store information representative of the additional outputs (0040), the speed data sensor device is further configured to transmit a distance output that is representative of a distance traveled by the athlete (0040), a data-logging device configured to be worn or carried by the user comprising a second wireless receiver configured to receive information transmitted from another device worn or carried by the user and a memory device configured to store information received by the second wireless receiver (0040), the user interface device is configured to display position information received from the global positioning system receiver on the display device (fig. 7), the user interface device is configured to display speed information received from the global positioning system receiver on the display device (0040), the user interface device is configured to display heart rate information received from the heart

monitor on the display device (138), the user interface device is configured to allow the display of information from devices designed after the manufacture of the user interface device (abstract), the data logging device configured to store position information received from the global positioning system receiver in the memory device (0040), the data-logging device is configured to store speed information received from the global positioning system receiver in the memory device (0040), the data-logging device is configured to store heart rate information received from the heart rate monitor in the memory device (0043), a computer and a connection path in which information stored in the data-logging device is sent to the computer using the connection path (fig. 2), a software application configured to display information received from the data-logging device (0031), the information displayed by the software application comprises information received by the data-logging device from a plurality of other devices (0031).

The method claims 65 and 68 are inherent in the corresponding apparatus claims and are rejected for the reasons above.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Pacione disclose a system for monitoring and managing body weight and other physiological conditions including iterative and personalized planning, intervention and reporting capability.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn Richman whose telephone number is 571-272-4981. The examiner can normally be reached on Mon-Thurs.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Glenn Richman  
Primary Examiner  
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